

LOCAL RULES

of the

UNITED STATES BANKRUPTCY COURT

for the

WESTERN DISTRICT OF OKLAHOMA

Effective February 2, 1998

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RULE 1001

SCOPE OF RULES

(a) Applicable Procedural Rules. The procedures in any case or proceeding in the United States Bankruptcy Court for the Western District of Oklahoma are governed by the laws of the United States, the Federal Rules of Bankruptcy Procedure, any applicable rules of the United States District Court for the Western District of Oklahoma, and these rules.

(b) Citation of Local Bankruptcy Rules. These rules may be cited as Local Bankruptcy Rules and may be amended by the Bankruptcy Court from time to time.

(c) Circumstances Not Covered. In any instance where there is no applicable rule of procedure a judge may prescribe one.

(d) Waiver of Rules. Except when precluded by the Federal Rules of Bankruptcy Procedure a judge may waive enforcement of these rules in the interests of justice.

(e) Definitions. The definitions of words and phrases contained in title 11 of the United States Code and the Federal Rules of Bankruptcy Procedure govern their use in these rules.

(f) Effective Date of Rules. These rules govern all cases and proceedings before the United States Bankruptcy Court for the Western District of Oklahoma effective February 2, 1998.

(g) Seal. The seal of the Court is of a circular design within the outer edge of which are the words "United States Bankruptcy Court, Western District of Oklahoma".

RULE 1002

COMMENCEMENT OF CASE: NUMBER OF COPIES

Unless otherwise ordered by a judge, or by general order, the number of copies of petitions, disclosure statements, plans, and accompanying papers, including amendments to such documents, must be:

- (1) Chapter 7 - an original and three copies;
- (2) Chapter 9 - an original and eight copies;
- (3) Chapter 11 - an original and six copies;
- (4) Chapter 12 - an original and four copies; and
- (5) Chapter 13 - an original and five copies.

RULE 1005

CAPTIONS

The caption of papers should comply with the appropriate Official Form. Every case and adversary proceeding number must be followed by the letters which designate the judge to whom it is currently assigned. The chapter under which the case proceeds should be shown below the case number.

RULE 1006

FILING AND MISCELLANEOUS FEES

(a) Acceptable Forms of Payment. All fees will be charged in accordance with 28 U.S.C. § 1930 and regulations promulgated thereunder. A filing or miscellaneous fee tendered to the Clerk must be in the form of currency, cashier's check, money order, or check of the attorney.

Currency will be accepted only if presented in person. Checks must be dated currently. Post-dated checks will not be accepted. Personal checks will not be accepted from debtor(s). Checks may be refused from law firms or individual attorneys who have tendered checks which have been returned by the bank on which drawn for insufficient funds within the previous twelve months. Separate checks must be tendered for each filing fee.

(b) Payment Required. Unless otherwise provided in the Bankruptcy Code or Rules, or in a general order of this Court, the Court may return any documents presented for filing and delay any requested service until such time as the appropriate fee is tendered.

(c) Payment of Filing Fees in Installments. An application for paying filing fees in installments must be separate from the petition and must state the proposed installment payments. The application must be on the appropriate Official Form. In those cases where applicable, if the entire filing fee has not been paid on the date of plan confirmation, the debtor-in-possession or trustee must pay the balance to the Clerk prior to any other payments provided for in the confirmed plan.

The Clerk is directed to give notice of a hearing to show cause upon failure to receive timely installment payments. The Clerk must give no less than ten days' notice by mail of the hearing to debtor(s) and counsel of record. If debtor(s), or counsel of record, fails to appear at such hearing or otherwise fails to show good cause why the case should not be dismissed for failure to pay filing fees, or fails to pay the entire balance of the fees owing at or prior to the hearing, the Court may dismiss the case, or otherwise dispose of it without prejudice.

(d) Priority of Payment. All Clerk's costs due and owing must be paid in full prior to payment of any interim professional compensation or other administrative expenses.

RULE 1007

PETITIONS, LISTS, SCHEDULES AND STATEMENTS; TIME LIMITS

(a) Assembly of Petition and Accompanying Papers.

(1) Voluntary Petitions without Schedules and Statement of Financial Affairs.

Voluntary petitions filed without Schedules and Statement of Financial Affairs must be assembled in the following order:

- (A) Petition, with debtor's declaration;
- (B) Exhibit "A" to the petition if the debtor is a corporation;
- (C) Attorney's compensation disclosure statement, signed by the attorney;
- (D) For cases under chapters 9 and 11, a list containing the names and addresses of the twenty largest creditors; and
- (E) A creditor mailing list complying with Local Rule 1007(b), which mailing list should not be stapled to the petition.

(2) Voluntary Petition with Schedules and Statement of Financial Affairs.

Voluntary petitions with Schedules and Statement of Financial Affairs for all chapters must be assembled in the following order:

- (A) Petition with debtor's declaration;
- (B) Exhibit "A" to the petition if the debtor is a corporation;
- (C) Attorney's compensation disclosure statement signed by the attorney;
- (D) For cases under chapters 9 and 11, a list containing the names and addresses of the twenty largest creditors;
- (E) Summary of Schedules;
- (F) Schedules "A" through "J";

(G) Debtor's declaration concerning the schedules;

(H) Statement of Financial Affairs with debtor's declaration; and

(I) A creditor mailing list complying with Rule 1007(b) of these rules, which mailing list should not be stapled to the petition.

(b) Mailing Lists. A creditor mailing list is required to be filed in every case. The form of names and addresses for the list shall be stated in a general order, which order will be subject to amendment from time to time.

(c) Late Filing of Papers. When the schedules, statement of financial affairs, and other papers are filed after the filing of the petition, they must be assembled in the same order as though they had been filed with the petition.

(d) Notice to Trustee. Any statement of intention respecting surrender or retention of property made under the provisions of 11 U.S.C. § 521(2)(A) must be served on the trustee and all creditors affected, with a certificate of service complying with Rule 9007 of these rules.

(e) Performance of Stated Intention. Upon performance of a stated intention, pursuant to 11 U.S.C. § 521(2)(B), the debtor must promptly advise the trustee in writing of such performance and of the disposition of the property.

RULE 1009

AMENDMENTS

(a) Caption Sheet. All amendments to the petition, statements, lists or schedules must have a caption sheet complying substantially with the official forms and must be entitled "AMENDMENT TO (specify petition, statement, list or schedule being amended)."

(b) Signature of Debtor(s). All amendments must be verified or contain an unsworn declaration to the same extent as was required of the original document.

(c) Additional Filing Fee. An additional filing fee is required for each amendment to a debtor's schedules, or lists, of creditors, pursuant to 28 U.S.C. § 1930(b).

RULE 1015

CONSOLIDATION OR JOINT ADMINISTRATION OF CASES: DECONSOLIDATION

All joint cases, filed pursuant to 11 U.S.C. § 302, shall be deconsolidated prior to conversion of the case to another chapter for one of the joint debtors. Requests for deconsolidation shall be made by motion, filed and served pursuant to Rules 9007 and 9013 of these rules. Deconsolidation shall be effective only upon both entry of an order and payment of any applicable fees.

RULE 1017

DISMISSAL OR CONVERSION OF CASES

Conversion or dismissal of a case, except those conversions pursuant to 11 U.S.C. §§ 1208(a) or 1307(a), shall be effective only upon entry of an order. Except for conversions of a single debtor in a joint case, conversions pursuant to §§ 1208(a) or 1307(a) are effective upon filing and service, by debtor, of a Notice of Conversion. Conversions of a case as to a single debtor in a joint case are effected through the procedures in Local Rule 1015 and this rule. Any request for conversion, the procedure for which is not specifically set forth in the following subparagraphs of this rule, must be made by motion, filed and served in conformity with Rules 9007 and 9013 of these rules.

(a) Conversions from Chapter 7. Requests for conversion of a case from chapter 7 to chapters 11, 12, or 13, if by the debtor, must be made by Motion for Order Converting Case accompanied by an affidavit containing facts showing that the case is eligible for conversion under 11 U.S.C. § 706(a) and (d). Requests for conversion of a case from chapter 7 to chapter 11, if by a party in interest, must be by motion, filed and served pursuant to Rules 9007 and 9013 of these rules.

(b) Conversions from Chapter 11. Requests for conversion of a case from chapter 11 to chapter 7, if by a debtor, must be made by Motion for Order Converting Case accompanied by an affidavit averring facts showing that the case is eligible for conversion under 11 U.S.C. § 1112(a) and (f). Requests for conversion of a case from chapter 11 to chapter 7, if by a party in interest or the United States Trustee, must be by motion, filed and served pursuant to Rules 9007 and 9013 of these rules respectively.

Requests for conversion of a case from chapter 11 to chapters 12 or 13, if by a debtor, must be made by motion, filed and served pursuant to Rules 9007 and 9013 of these rules respectively.

(c) Conversions from Chapter 12. Conversion of a case from chapter 12 to chapter 7, if requested by a debtor, is effective upon debtor's filing and serving a Notice of Conversion. Requests for conversion of a case from chapter 12 to chapter 7, if by a party in interest, must be made by motion, filed and served pursuant to Rules 9007 and 9013 of these rules.

(d) Conversions from Chapter 13. Conversion from chapter 13 to chapter 7, if requested by the debtor, is effective upon debtor's filing and, serving forthwith upon the chapter 13 trustee, a Notice of Conversion. Requests for conversion of a case from chapter 13 to chapter 7, if by a

party in interest, must be made by motion, filed and served pursuant to Rules 9007 and 9013 of these rules.

All requests for conversion of a case from chapter 13 to chapters 11 or 12 must be made by motion, filed and served in conformity with Rules 9007 and 9013 of these rules.

(e) Conversion of One Debtor in Joint Cases. Upon the order granting deconsolidation and payment of the fee required by the Administrative Office of the United States Courts, pursuant to 28 U.S.C. § 1930, requests for conversion may then be submitted according to the procedures in the appropriate prior subparagraph of this rule.

(f) Requests for Dismissal. Requests for dismissal of any case, except those requests made pursuant to 11 U.S.C. §§ 1208(b) or 1307(b), must be made by motion. Requests by debtor(s) for dismissal of cases under chapters 12 or 13, pursuant to §§ 1208(b) or 1307(b), must be made by Motion for Order Dismissing Case accompanied by an affidavit containing facts showing that the case has not been previously converted.

RULE 2004

EXAMINATION

Leave of court to examine any entity pursuant to Fed.R.Bankr.P. 2004 must be requested by motion under Rule 9013 of these rules, provided however, that if the entity requesting the examination certifies in a written application that notice of the proposed examination has actually been communicated to the entity to be examined, and that there is no objection to the examination as proposed, an order authorizing the examination may be submitted *ex parte* under Rule 9013(i)(5) of these rules.

Examinations pursuant to Fed.R.Bankr.P. 2004 may also be taken by stipulation, in which event no order shall be required.

RULE 2015

DUTIES OF CERTAIN TRUSTEES AND DEBTORS-IN-POSSESSION TO: KEEP RECORDS, MAKE REPORTS AND GIVE NOTICE

(a) Chapter 7 Cases. The chapter 7 trustee must submit:

- (1) A first report within 60 days of the meeting of creditors;
- (2) An interim report every 180 days, as required by the Office of the United States Trustee, unless a Final Decree has been issued;
- (3) A Final Report, pursuant to 11 U.S.C. § 704(9), containing the information required by the Office of the United States Trustee.

(b) Chapter 11 Cases - Post-confirmation. The debtor-in-possession, or trustee, in a case under chapter 11 must submit a report, no more than five pages in length, within 30 days after the date of the order confirming the plan, and every four months thereafter until the case is closed. This report shall set forth the actions taken toward consummation of the plan, and give an estimate of the date that a Final Report will be filed and Proposed Final Decree presented for acceptance.

(c) Records Retention. All trustees and debtors-in-possession must retain all records pertaining to a case for a period of not less than two years after the case is closed, or for such longer period as may be required by any applicable provision of the Internal Revenue Code.

RULE 3001

PROOF OF CLAIM

Proofs of claim should comply substantially with the Official Form. Any supporting documents attached to a proof of claim shall be limited to no more than a total of 10, single-sided pages. Do not send originals of supporting documents. The paper used for attachments shall be white, letter size (8 1/2" x 11"), and of standard weight. Should attachments and exhibits exceed a total of 10, single-sided pages send a summary of less than 10 pages. The clerk shall detach those pages exceeding ten and dispose of them without further notice.

RULE 3004

FILING OF CLAIMS BY DEBTOR OR TRUSTEE

The debtor or trustee filing any proof of claim in the name of a creditor shall concurrently file a separate notice of filing claim and shall serve, pursuant to Rule 9007 of these rules, both the notice and a copy of the claim upon affected creditor(s), and as appropriate, the debtor or trustee.

RULE 3007

OBJECTIONS TO CLAIMS

Any entity objecting to any claim shall file a written objection. The objection shall be served upon the claimant, the debtor or debtor-in-possession and the trustee and a certificate of service shall also be filed with the court pursuant to Local Rule 9007. All objections and responses shall be filed without any attachments or accompanying exhibits or supplements.

The written objection shall include the following: (1) at least 30 days notice of the hearing on the objection, as required by Rule 3007, Fed.R.Bankr.P.; (2) notice that responses to the objection must be filed within the time allowed under Local Rule 9013(e); and (3) a statement that

a failure to timely respond may result in the objection being sustained by the court without further notice or hearing, pursuant to Local Rule 9013(f). The objecting party shall also serve, at the same time as the objection, a copy of any order proposed to be entered should a timely response not be filed.

If a timely response is not filed and served, the objecting party shall forthwith present the proposed order to the court, pursuant to the procedures in Rule 9013 of these rules, and shall notify the court that the hearing on the objection may be stricken.

RULE 3015

FILING, OBJECTION TO CONFIRMATION AND MODIFICATION OF A PLAN IN CHAPTER 12 OR CHAPTER 13

(a) Chapter 12. Procedures and guidelines concerning cases under chapter 12 will be set forth in general orders of this Court, which orders will be subject to amendment from time to time.

(b) Filing of Chapter 13 Plans and Plan Summaries. Debtor must provide to the Clerk, upon filing the chapter 13 plan, an original and four copies of the plan or summary. The Clerk will make sufficient copies for mailing a copy to all interested parties and to the standing chapter 13 trustee.

(c) Contents of the Chapter 13 Plan. The plan must provide, in detail, for the treatment of all classes of claims. It must contain provision for each of the following and if any is not applicable, the plan should so state.

(1) Attorney fees. A statement of the amounts paid prior to the filing; the amount and terms of any proposed payment pursuant to the plan; and the total contemplated

compensation.

(2) Support obligations. A description of all currently outstanding support obligations, any arrearage thereon, and the proposed treatment of both.

(3) Secured claims. Each secured claim, including home mortgages, must include a statement containing:

(A) an estimate of the total claim amount; including any arrearage and allowable costs;

(B) an estimate of the amount of any pre-petition arrearage and allowable costs;

(C) the value assigned to the collateral under the proposed plan, and the amount of the claim to be allowed as secured and unsecured;

(D) the terms of repayment under the contract and under the proposed plan;

(E) the proposed provision for cure of any arrearage and allowable costs; and

(F) whether the proposed repayment extends beyond the term of the plan.

(4) Priority claims. The plan must state the existence and extent of any priority claims to be paid through the plan or otherwise.

(5) Unsecured claims. The plan must state the amount proposed to be paid during the life of the plan to holders of allowed unsecured claims.

(6) Special provisions. There must be a description of any other provision of the plan.

(7) Proposed plan payments and term. The plan must state the amount, frequency, and number of the debtor's proposed payments to the trustee.

(8) Term of the plan. There must be a statement of the proposed term of the plan and, if applicable, the cause for proposing a plan in excess of three years in length.

(9) Total payments (Base Amount). The plan must state the total amount to be paid to the trustee over the life of the proposed plan, to be known as the "base amount."

(d) Plan Summaries. The plan summary, if required, must contain such information as is necessary to provide adequate notice of the plan's treatment of the claims of all members of each class of creditors.

(e) Objections to Confirmation of the Proposed Chapter 13 Plan.

(1) Time for filing. Objections to confirmation of the proposed plan must be in writing, and must be filed and served no later than 20 days after the conclusion of the meeting of creditors held pursuant to 11 U.S.C. § 341(a).

(2) Valuation hearings. Disputes involving valuation of property must be resolved prior to the hearing on plan confirmation. The entity objecting to any valuation is responsible for obtaining a hearing date and time, and for serving notice thereof as in the case of service of objections to confirmation.

(3) Service of objections. Objections will not be considered unless a copy of the objection has been timely served on the trustee, debtor's counsel, and all other parties in interest.

(4) Enlargement of time. For good cause shown, the Court, upon request made within the applicable time period, may enlarge the time for filing and serving objections to confirmation.

(f) Orders Confirming Chapter 13 Plans. The standing chapter 13 trustee shall prepare and submit to the Court, after proper notice and hearing pursuant to 11 U.S.C. § 1324, an order confirming the plan, if no objection to confirmation has been timely filed and served or if any such objection has been withdrawn and the trustee is of the view that the plan meets the requirements of 11 U.S.C. § 1325(a) for confirmation.

(g) Modifications and Amendments to Chapter 13 Plans.

(1) The debtor must file and serve a copy of any proposed modification or amendment to any plan on the trustee and on all parties in interest affected by it, which proposed modification or amendment shall be treated as a contested matter and governed by Rule 9013 of these rules.

(2) Each proposed modification must clearly describe, as to each claim or class of claims sought to be modified, the original treatment, any proposed change, and the necessity or reason for the proposed change.

(3) The debtor must file with the proposed modification or amendment a supporting affidavit and amended schedules, if appropriate, and must serve copies of the same as in subparagraph (g)(1) of this rule.

(4) Debtors must serve copies of all orders entered by the Court modifying plans as in subparagraph (g)(1) of this rule.

RULE 3018

ACCEPTANCE OR REJECTION OF PLAN IN CHAPTERS 9 OR 11: BALLOTS

Ballots received in connection with confirmation of a Chapter 11 Plan of Reorganization may not be filed with the Clerk except as permitted by an order of the Court. Chapter 11 plan proponents may prepare and file a summary of ballots.

RULE 3022

FINAL DECREE IN CHAPTER 11 CASE

The debtor-in-possession or trustee must file a Final Report and present a Proposed Final Decree for acceptance, no later than one year after entry of an order confirming a plan of reorganization. This time period may be extended only upon motion and hearing as regards substantial consummation of the plan.

RULE 4001

RELIEF FROM AUTOMATIC STAY

If a request for relief from the automatic stay under 11 U.S.C. § 362(d) is opposed, it is the duty of the party opposing it to promptly notify the courtroom deputy clerk of the appropriate bankruptcy judge of the need for a hearing pursuant to § 362(e).

RULE 4003

EXEMPTIONS

Objections to claims of exemption must comply with Fed.R.Bankr.P. 4003(b).

RULE 5001

COURTS AND CLERK'S OFFICES

(a) Terms of Court. This Court will be in continuous session at Oklahoma City for the transaction of judicial business on all business days throughout the year.

(b) Location of Court. The principal offices of the Court are located in the United States Courthouse, 215 Dean A. McGee Avenue, Oklahoma City, Oklahoma.

(c) Other Locations. Hearings may be conducted by the judges of the Court in other locations within the district in any cases or proceedings where the Court finds, either on its own motion or upon motion of any party, that the interests of justice or the convenience of the parties or witnesses will best be served. See 28 U.S.C. § 152(b)(1).

RULE 5003

RECORDS KEPT BY THE CLERK: WITHDRAWAL

(a) Withdrawing Exhibits. Exhibits will not be docketed. Those exhibits which have been received into evidence may be withdrawn from the custody of the Clerk before final disposition of the case or proceeding only on order of the Court. Any exhibit not withdrawn within 60 days after final disposition of the case or proceeding may be destroyed or otherwise disposed of by the Clerk upon ten days' notice to the parties.

(b) Removal of Papers. All papers filed and exhibits received in evidence will be kept in the office of the Clerk in Oklahoma City. Any party who obtains any order for removal of a transcript made by an official court reporter in the course of official business, or who makes a copy of same in the Clerk's office, must pay to the Clerk of this Court the sum of \$0.50 per page

for the benefit of the official court reporter.

RULE 5005

FILING OF PAPERS

(a) Place of Filing. All papers will be filed with the Bankruptcy Court Clerk at the office of the Clerk, United States Courthouse, 215 Dean A. McGee Avenue, Oklahoma City, Oklahoma 73102.

(b) Filing Papers by Mail. Any paper which otherwise meets the requirements of these rules may be filed by mail. Upon request, the Clerk will return file stamped copies. The party must provide the copies of the paper, above the number required by Rule 1007 of these rules, along with a self-addressed, sufficiently sized envelope with correct postage.

(c) Filing Papers by Facsimile or Electronic Means. Any paper which otherwise meets the requirements of these rules may be filed by facsimile transmission in compelling circumstances only. Prior approval of the Court must be obtained before filing any paper in such manner, and the originals along with the required number of copies must be received at the office of the Clerk within three business days after receipt of the facsimile transmission. Filing by other electronic means is not allowed, except pursuant to a general order of this Court, which order may be amended from time to time.

(d) Assignment of Cases. The Clerk is directed to effect assignment and division of cases among the judges by a method set forth in a general order, which order may be amended from time to time.

(e) Assignment of Companion Cases. The term "companion case" means a case that may be consolidated for purposes of administration under Fed.R.Bankr.P. 1015. When companion

cases are filed the case with the later filing date may be transferred by the assigned judge to the judge assigned the case with the earlier filing date. No transfer shall be made until the respective judges have agreed to it.

RULE 5010

REOPENING CASES

Reopening of a case shall be effective only upon both entry of an order and payment of any applicable fees. Requests to reopen a case must be made by motion filed and served pursuant to Rules 9007 and 9013 of these rules. Should the motion be contested, Rules 9014 and 9017 of these rules shall apply.

RULE 7004

PROCESS; SERVICE OF SUMMONS

The summons is prepared by parties or their counsel and signed by the Clerk.

RULE 7010

FORM OF PLEADINGS

Exhibits attached to or supplementing all pleadings in adversary proceedings, including complaints and answers thereto, shall not be filed, except: in the case of affidavits accompanying motions for summary or default judgment, when specifically required by rule or statute as set forth in the pleading, or upon leave of court. Evidentiary material so allowed or required shall be limited to only the pertinent portions of such documents, single-sided and may consist of no more than 25 pages without leave of Court. Any other pleading received with attached or accompanying supplemental exhibits shall be returned without filing. Presentment of evidentiary material and lists of exhibits and witnesses for all hearings shall be made pursuant to Rules 9014 and 9017 of

these rules. Procedures for the presentment of evidence at trial are listed in Rule 7016 of these rules.

RULE 7016

PRETRIAL PROCEDURE: SCHEDULING CONFERENCES, SETTLEMENT CONFERENCES AND ALTERNATIVE DISPUTE RESOLUTION

(a) Scheduling. Scheduling conferences may be conducted in adversary proceedings brought pursuant to Fed.R.Bankr.P. 7001 and in contested matters brought pursuant to Fed.R.Bankr.P. 9014. As soon as the case or proceeding is at issue, the Court may schedule any conference it deems appropriate. Whether or not any such conference is held, the Court may enter a scheduling order governing amendments, dispositive motions, discovery, the final pretrial order, trial or hearing dates, and any other appropriate matters.

(b) Preparation for Conferences. Prior to any conference, trial counsel for each of the parties must meet and exchange all then known exhibits and other material which may be offered in evidence, and a list of all then known witnesses. It is the duty of counsel for plaintiff or movant to arrange this meeting. All other counsel must provide full cooperation for this and any subsequent meetings of counsel. Additional exhibits or witnesses must be exchanged promptly once they become known.

(c) Agenda at Conferences. Counsel who will conduct the trial or hearing and *pro se* parties must attend all conferences and be prepared to discuss, to the extent appropriate, all of the following:

- (1) Whether or not the proceeding is a core proceeding;
- (2) If it is not a core proceeding, whether or not the parties consent that the bankruptcy judge hear and determine the matter and enter appropriate orders and judgments;
- (3) Elimination of unnecessary claims or defenses;
- (4) Possibility of stipulations and admissions of facts;
- (5) Elimination of unnecessary and cumulative evidence;
- (6) Identification of witnesses and documents, the scheduling of pretrial motions, discovery cut-off, trial briefs, proposed findings of fact and conclusions of law, and the trial date;
- (7) The possibility of settlement;
- (8) Disposition of any pending matters;
- (9) Need for specific procedures in difficult or protracted cases;
- (10) Any unusual or unique legal issues; and
- (11) Any other appropriate matters.

(d) Preparation of the Final Pretrial Order. Unless otherwise ordered, counsel for the plaintiff or movant is responsible for initially preparing, circulating and submitting to the Court the final pretrial order in adversary proceedings. Opposing counsel shall cooperate fully in the preparation of the order. The final pretrial order shall be submitted to the appropriate judge for approval no later than five working days prior to the scheduled trial or hearing, unless otherwise provided for in any scheduling order.

(e) Sanctions. Failure to appear at a conference, appearance at a conference unprepared, or failure to cooperate in good faith with opposing counsel, may result in the imposition of sanctions. Possible sanctions include, without limitation, dismissal of complaints; the striking of pleadings, motions or responses; entry of preclusion orders; orders staying the proceeding; default judgment or order; assessment of expenses, costs and fees against either a party or counsel; or such other order as the Court may deem appropriate.

(f) Settlement Conferences and Alternative Dispute Resolution. The Court recognizes that alternative dispute resolution (ADR) procedures may facilitate compromise or narrowing of issues in contested matters and adversary proceedings. Any party may file a request for alternative dispute resolution. Opposing parties shall have ten days to file written objections stating the basis for their objections. After reviewing the request, any objections and, if appropriate, conducting a conference with the parties, the Court may refer any adversary proceeding or contested matter for appropriate non-binding ADR. Unless the parties agree upon the sharing of the costs of the ADR procedure, such costs shall be borne by the requesting party.

In the alternative, the judge to whom the case is assigned may *sua sponte* or upon request direct the parties to participate in a settlement conference before a judge other than the judge to whom the case is assigned.

To facilitate settlement or resolution of any adversary proceeding or contested matter, the judge may stay the pending matter, in whole or in part, in order to allow time to complete the ADR procedure.

RULE 7026

GENERAL PROVISIONS REGARDING DISCOVERY

Local Rule 7016(b) and (c) shall be applied in lieu of Fed.R.Civ.P. 26(a)(1). In addition, that rule shall apply in lieu of Fed.R.Civ.P. 26(a)(4) and (f). Further, discovery shall not be stayed pending the meeting of counsel as required by Fed.R.Civ.P. 26(d).

Depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the Clerk except as permitted by an order of the Court.

RULE 7030

DEPOSITIONS

Depositions may be taken at any time after commencement of an adversary proceeding or contested matter and this rule constitutes leave therefor as required by Fed.R.Bankr.P. 7030. Reasonable notice for taking a deposition is no less than three business days unless otherwise ordered by the Court.

RULE 7037

FAILURE TO MAKE DISCOVERY: SANCTIONS

The Court may refuse to hear any motion or response relating to discovery disputes unless counsel for the movant first advises the Court in writing that he or she has conferred in good faith with opposing counsel, and that after a sincere attempt to resolve differences has been made, the attorneys have been unable to agree.

RULE 7040

ASSIGNMENT OF PROCEEDINGS FOR TRIAL

Complaints in adversary proceedings brought pursuant to Fed.R.Bankr.P. 7001 will be assigned in all instances to the judge to whom the related bankruptcy case is assigned.

RULE 7041

DISMISSAL OF ADVERSARY PROCEEDINGS

(a) Dormancy. Any adversary proceeding or contested matter which has been pending without action for more than 90 days may be deemed dormant unless it is under submission.

(b) Disposition Docket. Periodically, the Clerk shall prepare a schedule of all dormant matters. Upon direction of the Court, the Clerk will notice all dormant matters for a disposition docket. The Clerk must give no less than ten days' notice by mail of the hearing to all parties and their counsel of record.

(c) Disposition of Dormant Matters. If the party or counsel of record fails to appear at such hearing or otherwise fails to show good cause why the dormant matter should not be dismissed or stricken, or fails to submit an order acceptable to the Court disposing of the matter at or prior to the hearing, the Court may dismiss or strike the dormant matter, or otherwise dispose of it with or without prejudice. Reopening or reassertion of the matter after disposition may be conditioned upon such terms as the Court may determine.

(d) Status of Adversary When Case Closed. Any adversary proceeding in which a final judgment has not been entered is deemed dismissed, without prejudice and without further order of the Court, upon dismissal of the case under which it pends, except as provided by an order of the Court. However, as to proceedings which have been removed from other courts to the

bankruptcy court, dismissal of the proceeding shall not be deemed effective until twenty days after dismissal of the case in order to provide time for the proceeding to be remanded to the court from which it was removed.

RULE 7052

FINDINGS BY THE COURT: EN BANC HEARINGS AND TRIALS

Upon request of a judge of the Court, or upon motion, any matter may be heard *en banc* if all judges of the Court concur.

RULE 7067

DEPOSIT IN COURT

Investment and disbursement of registry funds will be made pursuant to general orders of this Court, which will be subject to amendment from time to time.

RULE 8001

MANNER OF TAKING APPEAL AND PROCEDURE ON REMAND

(a) Copies of Notice of Appeal. The appellant must provide the Clerk an original and one copy for each party to the appeal. The Clerk shall serve notice of the filing of the notice of appeal pursuant to Fed.R.Bankr.P. 8004.

(b) Procedures Following Remand. Whenever a matter is remanded to the bankruptcy court any party may move to set the matter for further proceedings.

RULE 9004

GENERAL REQUIREMENTS OF FORM

(a) Papers Acceptable for Filing. All pleadings and briefs tendered for filing must be plainly and legibly printed or typewritten on one side of the paper only, and must be double spaced if more than one page in length.

(b) Paper, Margins and Fastening. The paper used must be white, letter size (8 1/2" x 11"), and of standard weight. The original presented for filing must be securely fastened at the top left corner without backs or covers. The upper margin of each sheet must not be less than 1 1/2 inches, and the lower margin and side margins not less than 1 inch.

(c) Signature Blocks. The name, address and telephone number of the person submitting a paper for filing must appear under that person's signature. If the person submitting a paper for filing is an attorney, his or her state bar number must also appear.

RULE 9006

TIME:

REQUESTS FOR ENLARGEMENT OF TIME

All requests for enlargement of time for the performance of an act required or allowed to be done must state: (1) the date by which the act may or must be performed without the requested enlargement; (2) whether previous requests for enlargement have been made, including the number and length of previous enlargement(s); and (3) whether the other party or parties in interest agree or object to the requested enlargement.

RULE 9007

GENERAL AUTHORITY TO REGULATE NOTICES: SERVICE

(a) When Service Required. Except as otherwise provided in these rules, in the Federal Rules of Bankruptcy Procedure, or in an order of the Court, every paper required to be served must be served on each party in interest upon whom service is required by the Bankruptcy Code or Federal Rules of Bankruptcy Procedure.

(b) Person to be Served. Where an attorney has entered an appearance for a party in a case or proceeding, service of any paper required to be made on such party, except a complaint, must be made on the party's attorney unless the Court directs otherwise.

(c) How Service Made. Service must be made pursuant to Fed.R.Bankr.P. 7005, which adopts Fed.R.Civ.P. 5(b), and Fed.R.Bankr.P. 9006.

(d) Certificate or Affidavit of Service. A certificate of service must accompany all requests for relief, objections, orders served pursuant to Rule 9013(i)(3) of these rules, and notices submitted for filing. Every certificate of service must include: (1) the names and addresses of all persons and entities served; (2) the date service was made; (3) the manner in which service was made; and (4) the signature of the person making the certificate, his or her typed name, address, telephone number and, if an attorney, state bar number. It is not sufficient to state that service was made on "all parties in interest," "all interested parties," or the like.

In cases where the certificate of service would be inordinately long the Court may provide exception to this rule.

If the Certificate of Service is made by a person who is not the agent of an attorney or trustee, it must be in the form of a sworn affidavit.

RULE 9009

OFFICIAL FORMS

All petitions, lists, schedules, statements and other pleadings should comply substantially with the Official Forms prescribed by the Federal Rules of Bankruptcy Procedure. All questions on the Official Forms must be answered.

RULE 9010

REPRESENTATION, APPEARANCE AND WITHDRAWAL: ATTORNEYS

(a) Bankruptcy Court Bar. Attorneys who are members in good standing of both the bar of the United States District Court for the Western District of Oklahoma and of the Supreme Court of the State of Oklahoma may practice before this Court provided the attorney's state bar number is provided to the Clerk of the District Court for the Western District of Oklahoma.

Any attorney admitted to practice before any other court of the United States may appear in a pending case only upon permission of the court subject to any conditions imposed on the appearance, including any requirement for association with local counsel.

(b) Entry of Appearance Required. An attorney appearing for a party in a case or proceeding must enter an appearance by signing and filing an entry of appearance or a pleading.

(c) Withdrawal of Counsel. Counsel may be permitted to withdraw only upon leave of Court with reasonable notice to the client and all other interested parties. Withdrawal may be conditioned upon counsel receiving papers for forwarding to the former client, as the Court may

require, until there is an appearance by other counsel or *pro se*.

(d) New Counsel. In the event a party changes, adds or substitutes counsel, new counsel must enter an appearance. It is the obligation of new counsel to inform the Clerk of his or her appearance.

(e) Representation of Artificial Entities. All pleadings and papers filed subsequent to the petition on behalf of a corporation, partnership, limited liability corporation or partnership, or other artificial entity must be filed by an attorney qualified to practice before this Court pursuant to Local Rule 9010(a).

RULE 9013

MOTIONS

(a) Request for Relief Defined. A request for relief other than one required to be commenced under Fed.R.Bankr.P. 7001 may be made by application, motion or in a response. An application is a request for relief which requires approval of the Court and may be granted *ex parte*. A motion is a request for relief which requires service, notice, and opportunity for hearing, unless made at a hearing as permitted by Fed.R.Bankr.P. 9013.

(b) Brief Required. A motion, application or response must specify the point or points upon which it is based and must be accompanied by a concise brief, unless excepted by subparagraph (h) of this rule or by the Court. A brief may be combined with the request for relief or response provided the title of the pleading clearly so indicates. No brief longer than 20 typewritten pages may be submitted without prior permission of the Court. Briefs exceeding 15 pages in length shall be accompanied by a table of contents showing headings or subheadings and by a table of authorities cited.

(c) Attachments and Supplemental Evidentiary Materials. No evidentiary material, such as exhibits, affidavits or documentary evidence, shall be filed as an attachment or supplement to any motion, response or brief, except as permitted pursuant to this Rule or Rule 7010 of these rules. Such materials shall be filed only: upon leave of court, when specifically required by rule or statute as set forth in the motion, brief or response, or, in the case of affidavits, when accompanying motions for summary or default judgment.

(d) Filing. All motions and briefs must be accompanied by two copies.

(e) Time for Response. Each party serving a response to a request for relief must serve it within 15 days after service of the request unless the Federal Rules of Bankruptcy Procedure, these rules or an order of the Court provide a different time for response. If service is by mail, an additional three days are allowed. Fed.R.Bankr.P. 9006(f).

(f) Failure to Respond. Any request for relief which is not opposed within the applicable response period may be deemed confessed and the relief granted *ex parte* if a proposed order granting the relief is submitted timely to the Court. *See* subparagraph (I)(3) of this rule.

(g) Hearings. Hearings on requests for relief may not be conducted routinely unless requested or unless required by an applicable Federal Rule of Bankruptcy Procedure or the Court. When applicable, notice of a hearing may be combined in one document with the request for relief, provided that the title of the pleading indicates that such notice is contained in the document. If the Court orders a hearing, the party requesting the relief is responsible for serving notice of the hearing date and time on all other interested parties and filing a certificate of service in compliance with Rule 9007(d) of these rules. Any request for continuance of a hearing or trial must be made in writing and, unless otherwise allowed by a judge, filed with the court at least ten days prior to

the scheduled date of the hearing or trial.

(h) Requests for Relief Not Requiring Briefs. Unless otherwise directed by the Court, briefs are not required with respect to requests for relief:

- (1) To continue a conference, hearing, or trial;
- (2) To file an amended or supplemental pleading;
- (3) To substitute parties;
- (4) For appointment of professional persons;
- (5) For enlargement of time in accordance with Rule 9007 of these rules; and
- (6) For administrative orders requested by a trustee in a case under Chapter 7, 12 or 13.

(i) Orders.

(1) Agreed Proposed Orders. All proposed orders must include an approval for entry and signature with typed name, address, telephone number and, if an attorney, a state bar number. An agreed order approved for entry only by the person submitting it will be acceptable provided it contains, or is accompanied by, that person's certification that all interested parties have consented to its entry. All such orders shall state that the "findings of fact are based upon representation of counsel."

(2) Service of Orders. The Clerk will serve copies of orders in adversary proceedings. In all other cases, the prevailing party must serve a copy of each order on all other parties in interest promptly after its entry and file an appropriate certificate of service in compliance with Rule 9007(d) of these rules.

(3) Proposed Orders Where No Response is Made. In those instances where no response has been served and filed timely, proposed orders must certify to the Court the date and manner of service of the request for relief and the persons and entities upon whom service was made; the applicable response period and the date of its expiration; and the lack of any timely response. If the person submitting the proposed order is not an attorney, it must be sworn to and acknowledged in the form of an affidavit. All proposed orders shall state that the “findings of fact are based upon representations of counsel.”

Upon entry of the order by the Court, the person submitting the proposed order must promptly serve copies of the order on all interested parties and file an appropriate proof of service in compliance with Rule 9007(d) of these rules.

(4) Time for Presenting Proposed Orders. Proposed orders on motions to which no timely response has been filed and served must be submitted within 20 days following expiration of the applicable response period or the motion may be stricken. All other proposed orders required to be submitted after hearing must be submitted by the prevailing party within five business days after the announcement by the Court of its decision, unless otherwise ordered by the Court.

(5) Other *Ex Parte* Orders. In each case of a request for relief presented *ex parte*, not provided for elsewhere in these rules, the person presenting a proposed order to the Court must specify the statute or rule which authorizes the Court to act *ex parte* and must state the specific reasons why the Court may and should proceed without notice. If the matter for which relief is sought is, or may be, a contested

matter, as defined in Fed.R.Bankr.P. 9014, the person seeking the relief must certify that the opposing party either consents, objects, or despite diligent efforts made in good faith, specifying such efforts, neither the party against whom the relief is requested nor counsel for such party could be contacted and advised that the relief would be sought.

RULE 9014

CONTESTED MATTERS

Unless otherwise provided in an order of the Court, any party wishing to present evidence at a scheduled hearing on a contested matter must file and serve on all parties in interest, pursuant to Rule 9007 of these rules, a notice listing: a brief description of the exhibits to be offered, the names of all witnesses intended to be called and an estimated length of time to present the evidence and argument. Such notice must be filed no later than 20 days prior to the scheduled hearing date. Upon review of this notice, the Court may schedule a pre-hearing conference and direct any rules governing adversary proceedings be applied to the matter. Presentation of exhibits is further subject to Rule 9017 of these rules.

Failure to comply with this rule may result in exclusion of the evidence or such other sanction as the Court deems appropriate in the circumstances.

RULE 9016

SUBPOENAS

Subpoenas must be prepared and issued pursuant to Fed.R.Bankr.P. 9016.

RULE 9017

EVIDENCE

(a) Hearing not Held. If a request for relief is based upon facts not appearing of record, the Court may, at its discretion, order the filing of affidavits and determine the matter without a hearing. *See* Fed.R.Bankr.P. 9017 which adopts Fed.R.Civ.P. 43(e).

(b) Marking and Disclosure of Exhibits. All exhibits which are intended to be offered in evidence at a trial or hearing must be marked for identification and provided to opposing counsel at least five business days prior to the trial or hearing, or as may otherwise be ordered by the Court.

(c) Bulky or Heavy Exhibits - Photographs. The Court may provide for preservation of evidence as justice may require. Evidence such as objects, exhibits, diagrams, charts and drawings on a chalkboard may be photographed under the supervision of the Court.

The Court may also order the party offering bulky or heavy exhibits to remove them. Such party must retain custody of, and be responsible for the safekeeping of such exhibits until after conclusion of the case or proceeding or until further order of the Court.

(d) Legibility. All evidence proposed to be used or introduced in a hearing or trial must be clearly legible.

SAMPLE FINAL PRETRIAL ORDER

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA

IN RE:)	CASE NO. XX-XXXXX-__
)	Chapter XX
JOHN DOE and JANE DOE,)	
)	
Debtor(s).)	
_____)	
)	
)	
ANY NATIONAL BANK & TRUST,)	
)	
)	
Plaintiff(s),)	
)	
v.)	ADV. NO. XX-XXXX-__
)	
)	
JOHN DOE and JANE DOE,)	
)	
)	
Defendant(s).)	

FINAL PRETRIAL ORDER

TRIAL DATE: _____, 19__

Date of Conference: _____, 19__

Appearances: Sam P. Attorney, Norman, OK, for Plaintiff
Dave C. Lawyer, Oklahoma City, OK, for Defendant

I. **STIPULATIONS**

- A. All parties are properly before the Court;
- B. The Bankruptcy Court has jurisdiction of the parties and of the subject matter pursuant to 28 U.S.C. § 1334, 28 U.S.C. § 157, and the order of the district court authorizing referral of proceedings to the bankruptcy judges;
- C. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I) and, to the extent the proceeding may be noncore, the parties consent to entry of judgment by the bankruptcy judge.
- D. Venue is proper under 28 U.S.C. §§ 1408-1412;
- E. This action is brought under 11 U.S.C. § 523(a)(2)(B) to determine the dischargeability of a debt;
- F. Facts:
 - 1. Plaintiff is an Oklahoma state chartered banking institution.
 - 2. Defendants are debtors who filed a voluntary joint petition under Chapter 7 of the Bankruptcy Code in the Western District of Oklahoma on January 29, 1993.
 - 3. Defendants are co-makers of a \$50,000 promissory note in favor of Plaintiff, dated October 14, 1991.
 - 4. Plaintiff refinanced the obligation on January 20, 1993, and at the time of filing for bankruptcy, the balance remaining due and owing was \$55,245.
- G. Legal Issue(s):
 - 1. Did Defendants submit a materially false financial statement in connection with their application to refinance the debt owing to Plaintiff?
 - 2. Did Defendants intend to deceive Plaintiff through the representations made in the financial statement?

II. CONTENTIONS

A. Plaintiff:

1. Facts:

- (a) During the period between the initial loan and refinancing of the note, Defendants' liabilities increased significantly while their assets decreased in number and value.
- (b) Defendants submitted a financial statement to obtain refinancing in which they listed more assets than they possessed and fewer liabilities than they owed.

2. Factual Issues:

- (a) Did Defendants intentionally misrepresent their financial situation to induce Plaintiff to refinance their note?

B. Defendants:

1. Facts:

- (a) Defendants did not overstate the number or value of assets and did not omit any liabilities owed in their financial statement with the intent to deceive Plaintiff.
- (b) Defendants were advised by bank officers that the bank required the financial statement primarily for audit purposes and not for the purpose of determining whether to refinance Defendants' note.

2. Factual Issues:

- (a) To what extent did Plaintiff rely upon the financial statement in deciding whether to refinance Defendants' note?

III. EXHIBITS

Exhibits not listed will not be admitted by the Court unless good cause is shown and justice demands their admission.

A. Plaintiff:

<u>Number</u>	<u>Title</u>	<u>Objection</u>	<u>Evidence Rule Relied Upon</u>
1	1991 Financial Statement	Relevance	402
2	Note dated Oct. 14, 1991	Relevance	402
3	Renewal note dated Jan. 20, 1993	None	
4	1992 Financial Statement	None	

B. Defendants:

<u>Number</u>	<u>Title</u>	<u>Objection</u>	<u>Evidence Rule Relied Upon</u>
---------------	--------------	------------------	--------------------------------------

None.

IV. WITNESSES:

No unlisted witness will be permitted to testify as a witness in chief except by leave of court when justified by exceptional circumstances.

A. Plaintiff

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
John Jones	Norman, OK	Plaintiff's lending procedures

Sam Flake	Moore, OK	Facts surrounding Jefferson Bank loan
Mike Otero	Bethany, OK	Facts surrounding refinancing

B. Defendant

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
All witnesses listed by Plaintiff		
Debtors	Okla. City, OK	Facts surrounding loans
Jan Tury	Lawton, OK	Lending practices of Plaintiff in 1991-92

V. CHRONOLOGICAL LISTING OF PERTINENT EVENTS:

Attached as a separate appendix is a chart or list setting forth all pertinent events (without explanation) in the chronological order in which the events occurred.

VI. POSSIBILITY OF SETTLEMENT:

Good ____; Fair ____; Poor ____ .

VII. ESTIMATED TRIAL TIME:

_____.

All parties approve this order and understand and agree that this order supersedes all pleadings and shall not be amended except by order of the Court.

Name
Address
Phone Number
Bar Number

Counsel for Plaintiff

Name
Address
Phone Number
Bar Number
Counsel for Defendant

APPROVED this _____ day of _____, 19 ____.

U.S. Bankruptcy Judge

Appendix to Final Pretrial Order

SAMPLE CHRONOLOGY

- Oct. 1, 1991 Defendants applied for a loan from Plaintiff and submitted a 1991 Financial Statement.
- Oct. 14, 1991 Defendants executed a note in favor of Plaintiff in the amount of \$50,000, and Plaintiff advanced that amount to Defendants.
- Jan. 14, 1993 Defendants sought to refinance the obligation they owed Plaintiff. Defendants submitted their 1992 Financial Statement prior to the refinancing.
- Jan. 20, 1993 Defendants executed a renewal note in favor of Plaintiff in the amount of \$55,245, for which Plaintiff "rolled over" the balance due on the old note and advanced to Defendants an additional \$2,000.00.
- Jan. 29, 1993 Defendants filed for relief under Chapter 7 of the Bankruptcy Code. The Schedules reflect assets and liabilities different from those set forth in either of Defendants' Financial Statements.
- Mar. 1, 19XX Plaintiff filed this adversary proceeding to except its debt from discharge.